

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GARY SAVAGE,

Plaintiff,

v.

BIOPORT, INC.,

Defendant.

Case No. 1:07-cv-370

Judge Paul L. Maloney

Magistrate Judge Carmody

**Order Disqualifying Plaintiff's Counsel
and Instructing Plaintiff How to Proceed**

Attorney John Edward Carpenter filed the complaint in the United States District Court for the District of Columbia in January 2006. In October 2006 a judge of that court ordered that the case be transferred to this court. The transfer of the case to this court was finalized on April 18, 2007.

On April 19, 2007, the Clerk of this court sent plaintiff's counsel a letter stating that plaintiff's counsel needs to seek admission to practice before this court. Plaintiff's counsel failed to seek admission to practice before this court or to seek an extension of time in which to do so. The Clerk sent him a second letter, dated June 19, 2007, that stated, in pertinent part:

Our records reveal that you have not provided the documents necessary to be admitted to practice in this court, despite receiving notification of the requirements.

According to W.D. MICH. LCivR 83.1, for an attorney to practice in this Court it is required that he or she submit an application for admission. Your failure to provide the necessary paperwork will result in your being prohibited from proceeding in this

case. Please complete the enclosed Petition for Admission form and return it to this office.

More than two months had elapsed since the Clerk's second admission letter was served on plaintiff's counsel, and plaintiff's counsel has neither sought admission to practice before this court nor sought an extension of time in which to do so.¹ Accordingly, on August 27, 2007 the court issued an order stating, in pertinent part, "the court hereby prohibits John Edward Carpenter from acting as counsel in this case unless he files the required documentation seeking admission to practice before this Court by September 10, 2007." Document #42 (boldface and capitalization omitted).

The September 10, 2007 deadline came and went, and Mr. Carpenter did not file the required documentation to seek admission to practice before this court.

Accordingly, the court hereby **PROHIBITS** John Edward Carpenter from acting as counsel in this case.

No later than Friday, December 7, 2007, the plaintiff SHALL do one of the following:

(1) hire a new attorney and have that new attorney file an appearance with the court;

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Since receiving the second admission letter, plaintiff's counsel has, among other things: filed a motion seeking leave to submit a brief regarding a related-case issue (#36 on July 30, 2007), filed said brief (#39 on July 11, 2007), participated in a scheduling conference before Magistrate Judge Carmody (minutes at #41 on August 2, 2007), and received a copy by U.S. mail of the minutes from said scheduling conference.

Since receiving this court's August 27, 2007 order threatening disqualification from this case, plaintiff's counsel also received a copy of the September 11, 2007 case management and scheduling order, which was sent to him by U.S. mail on September 12, 2007.

Obviously plaintiff's counsel is aware of the pendency and status of the case.

OR (2) notify the court in writing that he wishes to proceed *pro se* (that is, without a lawyer);
OR (3) file a stipulation of dismissal signed by all parties who have been served in this action
(*see* Federal Rule of Civil Procedure 41(a)).

If the plaintiff fails to do one of these three things by said deadline, the case will be subject to dismissal with prejudice for lack of prosecution.

Attorney Carpenter is ordered to provide a copy of this order to Plaintiff by certified mail no later than September 24, 2007.

IT IS SO ORDERED this 18th day of September 2007.

/s/ Paul L. Maloney

Honorable Paul L. Maloney
United States District Judge